

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2008-451-C - ORDER NO. 2009-79  
FEBRUARY 17, 2009

IN RE: Upstate Rental & Welding Supply Company,	)	ORDER HOLDING
Complainant	)	MOTION TO DISMISS IN
	)	ABEYANCE AND
v.	)	GRANTING EXTENSION
	)	TO FILE RESPONSE
BellSouth Telecommunications, Inc. d/b/a	)	
AT&T South Carolina,	)	
	)	
Respondent	)	

This matter comes before the Public Service Commission of South Carolina (“Commission”) on the motion of BellSouth Telecommunications, Inc. d/b/a AT&T South Carolina (“AT&T”) to dismiss the Complaint filed against AT&T by Upstate Rental & Welding Supply Company (“Upstate Welding”).

Upstate Welding commenced this docket by filing a complaint letter with the Commission on December 12, 2008, seeking relief from a prospective loss of business due to AT&T’s mistakenly changing Upstate Rental’s telephone number to an unlisted number. The Commission’s Docketing Department issued and served a Notice on December 23, 2008, informing AT&T of the complaint of Upstate Rental and the time in which to file an Answer to the Complaint pursuant to 26 S.C. Code Ann. Regs. 103-826 and 103-830. AT&T filed its Answer to the Complaint on January 22, 2009, and simultaneously moved for dismissal on several grounds.

By letter filed by David Popowski, Esquire of the Popowski Law Firm, LLC (“Popowski”) on February 3, 2009, the Commission was advised of Upstate Rental’s employment of Popowski as counsel in this proceeding. Popowski advises that Upstate Rental and AT&T are in settlement discussions and requests, based on the settlement discussions and other deadlines, that additional time be granted to Upstate Rental to respond to AT&T’s Motion to Dismiss.<sup>1</sup> Upstate Rental’s counsel requests an extension through and including Friday, February 13, 2009, to file the response.

26 S. C. Code Ann. Regs. 103-829 (2008) provides:

Motions,...Responses to such motions are due within ten days after service of said motions.... These times may be modified by order of the Commission or its designee for good cause.

After consideration of Upstate Rental’s request for an extension, we conclude that the request of Upstate Rental to extend the date for filing a response in this proceeding would not prejudice any party, thus modification of the time to file a response should be granted. As to AT&T’s Motion to Dismiss, we conclude the motion should be held in abeyance at this time.

IT IS THEREFORE ORDERED:

1. The request of Upstate Rental & Welding Supply Company for additional time to respond to BellSouth Telecommunications Inc. d/b/a AT&T South Carolina’s Motion to Dismiss is hereby granted. Accordingly, Upstate Rental & Welding Supply Company’s response is due February 16, 2009.

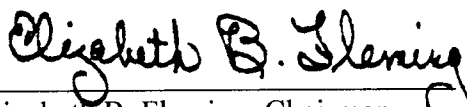
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<sup>1</sup> According to Upstate Rental’s counsel, the due date for the response of Upstate Rental to AT&T’s filing is February 4, 2009.

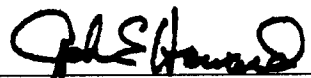
2. The Motion to Dismiss of BellSouth Telecommunications, Inc. d/b/a AT&T South Carolina is hereby held in abeyance.

3. This Order shall remain in full force and effect until further order of the Commission.

BY ORDER OF THE COMMISSION:

  
Elizabeth B. Fleming, Chairman

ATTEST:

  
John E. Howard, Vice Chairman

(SEAL)